

AO 108 (Rev. 06/09) Application for a Warrant to Seize Property Subject to Forfeiture

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

FILED

AUG 06 2019

David J. Bradley, Clerk of Court

In the Matter of the Seizure of
 (Briefly describe the property to be seized)
 Funds on deposit up to \$1,703,806 in SunTrust bank
 account ending in 7706

Case No.

H19-1463M

APPLICATION FOR A WARRANT
 TO SEIZE PROPERTY SUBJECT TO FORFEITURE

I, a federal law enforcement officer or attorney for the government, request a seizure warrant and state under penalty of perjury that I have reason to believe that the following property in the Southern District of Texas is subject to forfeiture to the United States of America under 18 U.S.C. §

981(a)(1)(C) & (describe the property):

18 U.S.C. § 984

Funds on deposit up to \$1,703,806 in SunTrust bank account ending in 7706.

The application is based on these facts:

See attached affidavit setting out the factual basis for probable cause to believe that the money sought to be seized is subject to forfeiture as property which constitutes or is derived from proceeds traceable to wire fraud.

☒ Continued on the attached sheet.


Applicant's signature

Charles E. Dukes, III, USSS Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 8-6-19City and state: Houston, Texas


Judge's signature

Christina A. Bryan, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEIZURE WARRANT

I, Charles E. Dukes III, being duly sworn, depose and state as follows:

I. Introduction and Agent Background

I make this affidavit in support of an application for a seizure warrant for the funds on deposit in one bank account held at SunTrust Bank, as I believe the accounts contain proceeds from a scheme to defraud, known as a "Business Email Compromise" (BEC).

I am a Special Agent with the Department of Homeland Security, United States Secret Service, and have been so employed since September 2017. I have been assigned to the Houston Area Fraud Task Force in the Houston Field Office since August 2019, and I have received training relevant to the subject areas addressed by the United States Secret Service. Specifically, I received training and instruction in federal criminal laws and fraud concerning financial institutions at the Federal Law Enforcement Training Center in Glynco, Georgia, and the James J. Rowley Training Center in Beltsville, MD. I am authorized under Title 18, United States Code, Section 3056(b) to conduct criminal investigations concerning any of the laws of the United States relating to electronic fund transfer frauds, access device frauds, false identification documents or devices, and fraud or other criminal or unlawful activity in or against any federally insured financial institution. I am further authorized by 18 U.S.C. § 3056(c) to execute warrants issued under the laws of the United States and make arrests, based upon probable cause, for any felony cognizable under the laws of the United States.

The statements in this affidavit are based on my personal observations, my training and experience, information obtained from witnesses and other law enforcement officials, and review of records obtained during the course of investigation. Because this affidavit is being submitted

for the limited purpose of securing a seizure warrant, I have not included each and every fact known to me concerning this investigation.

II. Property to be Seized

This affidavit is made in support of an application to seize up to \$1,703,806.00 in a SunTrust Bank account held in the name James E. Dellinger, account number 007327706 ("Account 7706") at SunTrust Bank, believed to hold approximately \$1,597,500. I submit there is probable cause to believe this account holds proceeds from a scheme to defraud the victim into electronically transferring money to the perpetrators based on false representations.

III. Applicable Statutes

Title 18, United States Code, Section 981(a)(1)(C) provides for the civil forfeiture of "[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting 'specified unlawful activity' (as defined in section 1956(c)(7) of this title)." A violation of 18 U.S.C. § 1343 (wire fraud) constitutes a "specified unlawful activity" under 18 U.S.C. § 1956(c)(7)(A), which incorporates 18 U.S.C. § 1961(1)(D).

With regard to the civil forfeiture of fungible property, Title 18, United States Code, Section 984 provides that funds deposited in an account in a financial institution that are found in the same account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture so long as the action is commenced within one year from the date of the offense. This section, when it applies, excuses the government from tracing the proceeds into the account. In other words, hypothetically, if \$100,000 in fraud proceeds were deposited into Account 1234 and suit were filed within a year of those transactions, then the government may civilly forfeit an equivalent amount of \$100,000 in funds from Account 1234, even if it is not exactly the same money that was deposited.

Property subject to forfeiture may be seized pursuant to 18 U.S.C. § 981(b)(1).

IV. Background on Online Schemes

Common online fraud schemes include business email compromise scams, advance payment scams, and romance scams. The business which lost money in this case appears to be a victim of a Business Email Compromise (BEC) scam in which a fraudster gains access to the business email account of an unwitting corporate employee and/or spoofs the official business email address of the victim company or of a legitimate vendor company. The fraudulent email convinces the employee of the victim company to make a wire transfer of corporate funds to a fraudulent account that the employee believes is a legitimate account for a legitimate business transaction.

V. Investigation of Fraudulent Scheme

I submit that there is probable cause to believe the victim company in Houston, Texas, received spoofed emails which instructed the victim to wire money to a bank account controlled by the fraudster or his associates. I have reviewed relevant documents and emails.

Sage Pump Services is located in Houston, Texas. On July 30, 2019, agents in the office were contacted by Scott Shackouls, Chief Financial Officer of Sage Pump Services, of a BEC. Shackouls stated that on July 15, 2019, Ann Ryan, Accounts Payable Clerk of Sage Pump Services received a fraudulent email appearing to come from Lora Grecula of Lofton Equipment Company requesting Ryan to make payment via ACH to a new account. The real Lofton Equipment Company has a business relationship with Sage Pump Services.

The email advised Ryan to acknowledge receipt of the message and provide payment status, and it further advised a follow-up email with new bank information was forthcoming. Ryan

soon received the second email advising her to deposit payment to SunTrust Bank located at P.O. Box 641055, Dallas, TX 75264 to account #007327706 ("Account 7706").

On July 25, 2019, Dennis Sklar, Controller of Sage Pump Services made a MapleMark Bank wire transfer of \$1,358,906.00 to SunTrust Bank to Account 7706. On July 26, 2019, Sklar again made a MapleMark Bank wire transfer of \$344,900.00 to Account 7706. A seizure warrant is sought for funds at SunTrust Account 7706, which are the proceeds of wire fraud.

This account does not belong to Lofton Equipment Company. CD NS

Conclusion

I submit that probable cause exists to believe the victim located in the United States electronically transferred \$1,703,806.00 to SunTrust Bank Account 7706 in July 2019, as a result of a scheme to defraud. By application of Section 984, funds in Account 7706 up to the total amount of \$1,703,806.00, are subject to forfeiture as the proceeds of wire fraud.

Based upon the information outlined above, I submit that there is probable cause to believe funds up to \$1,703,806.00, held in SunTrust Account 7706, constitute fraud proceeds and are subject to forfeiture under 18 U.S.C. §§ 981(a)(1)(C) and 984, and subject to seizure under 18 U.S.C. § 981(b)(1).



Charles E. Dukes III
Special Agent
U.S. Secret Service

Sworn to before me and subscribed in my presence on August 6th, 2019, and I find probable cause.


 Christina A. Bryan
 United States Magistrate Judge
 